

TOWN OF TIVERTON  
ZONING BOARD OF REVIEW  
MINUTES

JANUARY 6, 2010

The following petitions were received and were heard by the Tiverton Zoning Board of Review on Wednesday, January 6, 2010 at 7:30 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Chairman David Collins, John Jackson, Richard Taylor, Lise Gescheidt, Michael Mello and Raymond LaFazia (Alternate)

Also present were: Peter Ruggiero, Town Solicitor, Mary Ann Escobar, Court Reporter and Gareth Eames, Building Inspector.

1. A petition has been filed by Isabel Y. and Elizabeth Negus of 2148 Main Road, Tiverton, Rhode Island requesting a variance to Article XIV, Section 5.c. of the Tiverton Zoning Ordinance in order to construct a ten-foot by nine and a half foot bathroom addition to the rear of the existing dwelling located at 1248 Main Road, Tiverton, Rhode Island being Map 1-9, Block 89, Card 31 on Tiverton Tax Assessors maps whereby expanding a legal nonconforming use located in a waterfront zoning district.

**DECISION:** Isabel Negus and Elizabeth Negus Viveiros appeared before the board. Isabel Negus lives in the home and is elderly and having trouble getting around her house. She does not currently have a bathroom on the first floor. This is causing her a hardship. She is becoming more and more incapable of climbing stairs and such and wishes to construct a bathroom downstairs. A neighbor appeared before the board stating that they have no problem with such request.

The Board went into Executive Session to discuss the matter. Mr. Mello made a motion to grant due to the petitioners hardship. It also meets all the setbacks and will not be any detriment to the neighbors. Mr. Jackson seconded. The Vote was unanimous.

2. A petition has been filed by Richard Tosi of 248 Nanaquaket Road, Tiverton, Rhode Island requesting a variance to Article V, Section 1 and Article VI Section 3.b. of the Tiverton Zoning Ordinance in order to allow an already partially constructed 22 foot by 26 foot storage shed to remain located at 248 Nanaquaket Road, Tiverton, Rhode Island, being Map 1-9, Block 90, Card 9 on the Tiverton Tax Assessors maps closer to the side yard setback than is currently allowed in a R80 zoning district.

**DECISION:** Richard and Ann Tosi appeared before the board. Mr. Tosi stated that in 2001 he hired a person to draw up plans to build a shed for the property and he obtained a building permit for such. They cleared the flooring and the outer limits of the foundation

and this area stayed clear for all this time but they stopped the project for personal reasons, some family members became ill and died.

Finally in the summer of '09 he felt that they could finish up what they had started. He assumed that the original building permit would still be acceptable and started construction, but the shed is now too close to the sideyard setback, and he was informed he needed to obtain a variance. When asked by the board to produce the original building permit, Mr. Tosi did not have the original permit, but had a cancelled check he claimed was the fee for the building permit.

The Board wondered why the building official would have granted such a permit when the sideyard setback wasn't met. The Board asked Mr. Tosi if the shed could be moved to another location. Mr. Tosi stated that there is an old cistern on the property and also the septic system and leaching field, and that it was the only place the shed could be built.

Mr. Taylor suggested that he get a new site plan signed by a registered surveyor, since the one he has now is just signed by an architect. The current plan also does not show the septic and leaching field on the property.

Mr. Tosi requested a continuance to gather more information that the Board was looking for. The Board granted his request to continue to February 3, 2010.

3. A petition has been filed by Global Tower Partners of Boca Raton, Florida, requesting a special use permit to Article IV Section 5.d. of the Tiverton Zoning Ordinance in order to develop a telephone communications tower located at 500 Eagleville Road, Tiverton, Rhode Island being map 3-12 Block 108, Card 41A on Tiverton Tax Assessors maps in an industrial zone district which requires a special use permit.

**DECISION:** Chris Swiniarski and Peter Lamontagne appeared before the Board requesting permission to construct a 150 foot utility transmission pole on the property. If constructed, the pole will serve as a co-location facility to provide enhanced wireless coverage for the residents and inhabitants of Tiverton.

The Board asked who the tenants would be and how far this coverage will serve. Mr. Swiniarski stated that the pole will serve a maximum radius of two miles, and that they are currently in negotiations with a few carriers, but do not have an agreement with any as of yet. They were looking for the variance first, and then go from there. The Board did not feel that they had enough information to grant this.

Mr. Swinarski requested to withdraw this petition without prejudice. Ms. Gescheidt made a motion to grant his request to withdraw. Mr. Jackson seconded. The Vote was unanimous.

3. A petition has been filed by Global Tower Partners of Boca Raton, Florida, requesting a special use permit to Article V Section 1 and Article VI, Sections

1, 2, 3 and 5 of the Tiverton Zoning Ordinance in order to develop a telephone communications tower located at 500 Eagleville Road, Tiverton, Rhode Island being map 3-12 Block 108, Card 41A on Tiverton Tax Assessors maps in an industrial zone district which requires a special use permit.

**DECISION:** Chris Swiniarski and Peter Lamontagne appeared before the board requesting permission to construct a 150 foot utility transmission pole on the property. If constructed, the pole will serve as a co-location facility to provide enhanced wireless coverage for the residents and inhabitants of Tiverton.

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Mr. Swinarski requested to withdraw this petition without prejudice. Ms. Gescheidt made a motion to grant his request to withdraw. Mr. Jackson seconded. The Vote was unanimous.

4. A petition has been filed by Edward J. Robitaille, c/o Jeremiah R. Leary of 140 Main Road, Tiverton, Rhode Island asking a special use permit to Article VI and Article VIII of the Tiverton Zoning Ordinance in order to install an onsite waste water treatment system O.W.T.S. closer to both 200 feet and 125 feet to the shore of the Stafford Pond and to expand the existing dwelling within 200 feet of the Stafford Pond located at 1131A Stafford Road, Tiverton, Rhode Island being map 410, Block 113, 9E on Tiverton Tax assessors Maps in an R60 zoning district.

**DECISION:** Attorney Leary appeared on behalf of the petitioners. Mr. Leary gave a brief opening explaining that the petitioner wishes to expand the two bedroom dwelling, although it will still remain only a two bedroom dwelling. They are also going to replace the two existing cesspools with a modern state of the art septic system. Mr. Leary stated that an Environmental Review Statement was reviewed and approved by the Planning Board with conditions.

Gareth Eames, Building Official, was sworn in and testified that he has reviewed the petitioner's proposal and submitted a letter to the Planning Board stating that the proposed septic system will be an improvement over the two existing cesspools. Mr. Eames was also asked if he had any problem with the existing proposal to expand the dwelling and he stated no.

The following items were marked: Environmental Review – Exhibit A.  
Mr. Eames letter – Exhibit B.

Paula Robitaille testified as follows: Her and her husband currently live in the two bedroom dwelling that's on the property. There is also a one bedroom dwelling that exists on the property, which they use as storage and the like.

Mrs. Robitaille stated that the current dwelling used to be a trailer and a structure was built around it and hallowed out. The structure has been there since the late 40's, early 50's. She also explained that currently the way the structure is built, there is no room to move around. The tub in the bathroom is unusable. She has no storage for pots and pans for cooking. There is no room for a dishwasher. It's just a very tight living situation. They would like to remodel to make the rooms more accessible. There is currently only one bathroom and they would like to add a bathroom upstairs.

Todd Chaplin, Registered Professional Engineer, appeared before the board. Mr. Chaplin prepared the Environment Review Statement which has been admitted as Exhibit A. Mr. Chaplin stated that the new septic system is state of the art and will be located toward the center of the lot in order to maximize all the setback distances. This is an advanced system and will be an improvement to the property.

Mr. Chaplin also stated that there will be no adverse impacts to Stafford Pond due to any expansion of this dwelling. The dwelling will remain on the same footprint as it currently stands, with the addition of a second floor. He also stated that there will be no activity whatsoever in the buffer zone.

Mr. Chaplin stated that there will be no degradation of ground water or any wetland or surface water body caused by this, no obstruction of floodways or reduction of the net capacity of the site to retain flood waters. There will be no sedimentation of any wetlands, or if there is any that might occur, such erosion control measures will be put in place to avoid it. In addition, there will be no reduction in the capacity of the wetland to absorb pollutants. The recreational education or research value of the pond will not be degraded, and in terms of the natural element of the pond, spawning ground for fish or habit for wildlife, they will not be degraded at all by this proposal.

Nathan Godfrey, Real Estate Expert, testified as follows: He conducted a site visit to the property and took pictures of the property. After doing so, he went to the town hall to review the file regarding the property.

After his investigation into the property, it is his professional opinion that by granting this variance it would be an improvement to this property. He believes that it also complies with the Comprehensive Plan under all six criteria.

The Board went into Executive Session to discuss the matter. Mr. Taylor made a motion to grant the variance specifically only for the relief for the O.W.T.S. Mr. Mello seconded. The Vote was unanimous.

Ms. Gescheidt made a motion to grant the variance for the expansion on the dwelling and also issue a special use permit for such. She stated that it is compatible with neighboring

uses, will not impact health or welfare, and it is also compatible with the comprehensive plan of the town. In addition, she stated that the current living arrangement also creates a hardship for this family. Mr. Jackson seconded. The Vote was 4-1. Voting for were Mr. Collins, Ms. Gescheidt, Mr. Jackson and Mr. Mello. Voting against was Mr. Taylor. The Vote passed.

Administrative Items: Mr. Taylor made a motion to accept last month's minutes as written. Ms. Gescheidt abstained since she wasn't at the last meeting. Mr. Jackson seconded. The Vote was unanimous.

Whereupon the meeting adjourned at 9:08 p.m.

ZBR: mae

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, and Commissioner for the State of Rhode Island, do hereby certify that the foregoing pages 1 through 6 are complete, true and accurate to the best of my knowledge, skill & ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 3rd day of February, 2010.

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Mary Ann C. Escobar, RPR

My Commission expires: August 16, 2011.

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LEDGEWOOD COURT REPORTING  
23 Last Street  
Tiverton, RI 02878  
(401) 625-5455